IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.514 OF 2007

Shri M.N. Mahalingam .. Petitioner
v/s.
Smt. Radha Mahalingam and another .. Respondents

Mr.Prakash H. More for the petitioner.
Mr. A.S. Shitole, APP for the State.

CORAM : B.H. MARLAPALLE, J.
DATED : 3RD SEPTEMBER, 2007

P.C.

Heard Mr. Prakash H. More, the learned counsel for the petitioner.

2. It is contended that the respondent had initially filed Miscellaneous Application No.615 of 2006 and on its verification on 19.6.2004, the learned Metropolitan Magistrate by his order dated 7.5.2004 was pleased to return the complaint to the complainant for its presentation to the proper court. The complainant thereafter approached the Sessions Court at Mumbai and filed Criminal Revision Application No.712 of 2004 against the order passed by the learned Metropolitan Magistrate and the revision application has been dismissed on 8.9.2005 by the learned additional Sessions Judge.

3. It is submitted that for the very same cause of action, the respondent No.1 has now filed a fresh complaint before the learned Judicial Magistrate, First Class at Thane and in the said case, process has been issued against the

petitioner on 19th June, 2006. This petition has been filed on 14th March, 2007. It is well settled that the petitioner has an equally efficacious remedy of filing criminal revision application in the Sessions Court at Thane.

4. Hence, the petition is disposed of with liberty to the petitioner to file criminal revision application under section 397 of the Criminal Procedure Code before the Sessions Court at Thane.

5. If such a revision application is filed within a period of four weeks from today, the period of pendency of this petition from 14th March, 2007 till today shall be excluded for counting the period of limitation while hearing the application for condonation of delay, if any.

(B.H. MARLAPALLE, J.)